

CONNECTICUT LAW JOURNAL



Published in Accordance with
General Statutes Section 51-216a

VOL. LXXIX No. 39

March 27, 2018

283 Pages

Table of Contents

CONNECTICUT REPORTS

Carmon v. Commissioner of Correction (Order), 328 C 913	3
State v. Brown (Order), 328 C 914	4
Volume 328 Cumulative Table of Cases	5

CONNECTICUT APPELLATE REPORTS

Binkowski v. Board of Education, 180 CA 580	212A
<i>Intentional infliction of emotional distress; claim that trial court improperly granted motion to strike complaint; whether complaint failed to state cause of action that fell within intentional tort exception to exclusivity provision (§ 31-293a) of Workers' Compensation Act; whether complaint failed to state cause of action under actual intent and substantial certainty standards set forth in Suarez v. Dickmont Plastics Corp. (242 Conn. 255).</i>	
Bueno v. Firgeleski, 180 CA 384	16A
<i>Declaratory judgment; whether restrictive covenant in plaintiffs' deed was unenforceable; claim that three interrelated factual findings of trial court were not supported by evidence; whether trial court properly found that certain lot violated restrictive covenant, that property containing homestead was intended beneficiary of restrictive covenant and that dominant estate did not include certain subdivision; claim that trial court erred by going beyond four corners of relevant deeds in interpreting certain language in chain of title to certain lot; whether trial court misapplied facts of present case to tests set forth in Shippan Point Assn., Inc. v. McManus (34 Conn. App. 209), and Fidelity Title & Trust Co. v. Lomas & Nettleton Co. (125 Conn. 373); whether trial court properly determined that restrictive covenant was not enforceable by defendants because its purpose had been frustrated by substantial and permanent change in circumstances, it had been abandoned by lack of enforcement and it did not benefit any of parties' properties.</i>	
Gainey v. Commissioner of Correction (Memorandum Decision), 180 CA 901	241A
Hines v. Commissioner of Correction (Memorandum Decision), 180 CA 902	242A
McCarroll v. East Haven, 180 CA 515	147A
<i>Negligence; action for damages for injuries sustained by elementary school student who fell from ladder of wooden playscape he was climbing on at elementary school playground; whether trial court properly determined that defendant town's inspection and repair of playscape on elementary school playground was discretionary act and, thus, subject to governmental immunity; claim that identifiable person-imminent harm exception to discretionary act immunity applied; failure of plaintiffs to demonstrate that harm was imminent.</i>	
Metropolitan District v. Commission on Human Rights & Opportunities, 180 CA 478	110A
<i>Declaratory judgment; subject matter jurisdiction; motion to dismiss; administrative appeal; exhaustion of administrative remedies requirement; whether plaintiff had adequate administrative remedies that it failed to exhaust prior to commencing present civil action seeking declaratory judgment and injunctive relief against defendant Commission on Human Rights and Opportunities; whether plaintiff could properly commence present action seeking declaratory judgment that commission had not complied with statutory and regulatory obligations and had improperly assumed jurisdiction over complaints against plaintiff filed by independent contractors when three actions in which plaintiff was respondent presently were pending before commission; whether plaintiff could resort to avenues of</i>	

(continued on next page)

<i>declaratory relief available under Uniform Administrative Procedure Act (§ 4-166 et seq.); claim that plaintiff's action could proceed because action fell under exception to exhaustion of administrative remedies requirement that applies when administrative remedies are futile or inadequate; claim that plaintiff was not required to exhaust remedies when present action challenged jurisdiction of commission; whether inclusion of requests for injunctive relief and writ of mandamus in complaint obviated need for plaintiff to comply with exhaustion requirement; claim that exhaustion of administrative remedies requirement did not apply to count of complaint alleging violation of plaintiff's federal due process rights.</i>	
Micek-Holt v. Papageorge, 180 CA 540	172A
<i>Contracts; claim that defendant breached contract for purchase and sale of certain real property; claim that plaintiff breached contract for purchase and sale of certain real property; adoption of trial court's memorandum of decision as statement of facts and applicable law on issues.</i>	
Murray v. Suffield Police Dept. (Memorandum Decision), 180 CA 901.	241A
Nassra v. Nassra, 180 CA 421	53A
<i>Dissolution of marriage; whether trial court lacked subject matter jurisdiction over motion for order of payment filed by nonparty to dissolution action; whether nonparty established classical aggrievement to have standing to file motion for order of payment of court-ordered visitation supervisor fees; whether trial court improperly determined that oral contract existed between nonparty and defendant; claim that any oral contract of parties was barred by three year statute of limitations (§ 52-581); whether oral contract that had been executed was governed by six year statute of limitations (§ 52-576); whether trial court properly ordered parties to be equally responsible for debt to nonparty; whether defendant had notice of issue of fees sought by nonparty.</i>	
Papageorge v. Micek-Holt (See Micek-Holt v. Papageorge), 180 CA 540.	172A
Ryan v. Cassella, 180 CA 461.	93A
<i>Debt collection; claim that trial court improperly granted motion to correct default judgment because court failed to specify legal basis for its decision; whether misspelling of defendant's name by one letter constituted circumstantial defect that was correctable pursuant to applicable statute (§ 52-123); whether trial court had authority to grant motion to correct more than four months after default judgment had been rendered; claim that trial court abused its discretion in denying motion to open and vacate order granting motion to correct.</i>	
Silver v. Commissioner of Correction, 180 CA 592	224A
<i>Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; claim that trial counsel failed to adequately advise petitioner regarding possible plea agreement with state; credibility of witnesses; whether petitioner failed to sustain burden of demonstrating that counsel's performance was deficient.</i>	
State v. Hudson, 180 CA 440.	72A
<i>Conspiracy to commit assault in first degree; whether there was sufficient evidence to support defendant's conviction; whether jury reasonably could have drawn</i>	

(continued on next page)

CONNECTICUT LAW JOURNAL

(ISSN 87500973)

Published by the State of Connecticut in accordance with the provisions of General Statutes § 51-216a.

Commission on Official Legal Publications
 Office of Production and Distribution
 111 Phoenix Avenue, Enfield, Connecticut 06082-4453
 Tel. (860) 741-3027, FAX (860) 745-2178
www.jud.ct.gov

RICHARD J. HEMENWAY, *Publications Director*Published Weekly – Available at <http://www.jud.ct.gov/lawjournal>

Syllabuses and Indices of court opinions by
 ERIC M. LEVINE, *Reporter of Judicial Decisions*
 Tel. (860) 757-2250

The deadline for material to be published in the Connecticut Law Journal is Wednesday at noon for publication on the Tuesday six days later. When a holiday falls within the six day period, the deadline will be noon on Tuesday.

<i>inference that beating of victim had been administered by another person in furtherance of mutual plan with defendant that assault of victim be carried out; whether jury reasonably could have found beyond reasonable doubt that defendant had conspired with other person to commit assault in first degree by inflicting serious physical injury on victim by means of dangerous instrument and that other person had committed overt act in furtherance of conspiracy.</i>	
State v. Kaminski (Memorandum Decision), 180 CA 902	242A
State v. Louis D., 180 CA 527	159A
<i>Criminal possession of firearm; criminal violation of protective order; whether trial court improperly consolidated three informations for trial; whether three informations involved discrete, factually distinguishable scenarios; whether trial court improperly denied motion for judgment of acquittal; whether there was sufficient evidence to establish that state had proven beyond reasonable doubt that defendant was afforded notice and opportunity to be heard prior to issuance of subject protective order, as required by statute ([Supp. 2014] § 53a-217 [a]); whether defendant was entitled to evidentiary hearing prior to issuance of protective order; whether arraignment provided defendant with required notice and opportunity to be heard.</i>	
State v. Smith, 180 CA 371	3A
<i>Motion to correct illegal sentence; kidnapping in first degree; felony murder; robbery in first degree; manslaughter in first degree; claim that sentence was illegal because conviction of felony murder and predicate offenses violated defendant's fifth amendment protection against double jeopardy; claim that trial court abused its discretion in denying motion to correct illegal sentence when during sentencing phase, sentencing court merged convictions for felony murder and manslaughter in first degree; claim that vacatur, not merger, was required pursuant to State v. Polanco (308 Conn. 242) and State v. Miranda (317 Conn. 741); whether rules in Polanco and Miranda applied retroactively when defendant's conviction became final before rules in Polanco and Miranda were established, and both cases involved exercise of supervisor powers by our Supreme Court and announced rules that were based strictly on policy considerations.</i>	
Traylor v. Gambrell, 180 CA 459	91A
<i>Summary judgment; motion to strike; claim that trial court improperly rendered summary judgment on claims of spoliation of evidence and unfair trade practices in violation of Connecticut Unfair Trade Practices Act (CUTPA) (§ 42-110a et seq.); claim that trial court erred in striking CUTPA claim.</i>	
Wilmington Savings Fund Society, FSB v. Della Ruffa (Memorandum Decision), 180 CA 902	242A
Faille v. Stratford (replacement pages), 177 CA 209–210	xvii
State v. Salmond (replacement pages), 179 CA 609–614	v
State v. Salmond (replacement pages), 179 CA 619–620	xi
State v. Salmond (replacement pages), 179 CA 623–624	xiii
State v. Smith (replacement pages), 179 CA 739–740	xv
Volume 180 Cumulative Table of Cases	243A

SUPREME COURT PENDING CASES

Summaries	1B
---------------------	----

NOTICES OF CONNECTICUT STATE AGENCIES

Social Services, Department of	1C
--	----

MISCELLANEOUS

Notice of Suspension of Attorney	1D
--	----